

ATTACHMENT - REMARKS

Claims 1-3 and 5-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cosman in view of Matsumoto or the DE reference (No. 31 51 523). This rejection is respectfully traversed although claim 1 has been amended to even more clearly define over the references relied on.

First, it is not clear that the Examiner has examined the set of claims currently presented. In this regard, in discussing the Cosman patent, the Examiner makes reference to language which does not appear in the claims as amended in the Preliminary Amendment filed on May 19, 2006, viz., "each resonant circuit comprising an inductive coil and a capacitor whereby the inductive coils each have only a few windings preferably a single winding."

Second, it is respectfully submitted that the rejection ignores the language of previously amended claim 1, viz., "conducting material layers (2, 3, 4) providing the coils and capacitors being formed on the surfaces of the dielectric plastic film (1) in such a way that a possible break in the marking tape results in a loss of resonance or displacement of resonance frequency of at least one of the resonant circuits." It is respectfully submitted that this feature is simply not disclosed in any of the references cited, and thus that claim 1 is allowable for at least this reason. This feature is important because it enables the detection capability described in the specification. For example, reference is made to lines 26-33 of page 2 which provide that "it is possible to detect such an effect in the dielectric plastic film which would indicate that the marking tape has been subjected to excessive mechanical load, which may indicate that the

surrounding subterranean formations have lost their supporting properties or that the marking tape has been dug up.”

Further, to the extent that the Examiner is contending that the feature of the invention discussed above is set forth in functional language or is somehow inherent from the teachings of the references (and such a contention is not discussed in the Office Action), claim 1 has been amended in order to set forth certain structural features which clearly define over the references relied on. These features are directed to the “overlapping range 6” between one coil and the adjacent coil described in the specification, and illustrated, for example, in Figure 1. More specifically, claim 1 has been amended to recite that the conducting material layers providing the coils and capacitors are formed on the surfaces of the dielectric plastic film in such a way that the coil of each resonant circuit comprises an elongate substantially rectangular coil which is of a longitudinal extent such as to overlap the coil of the next subsequent resonant circuit in the longitudinal direction of the marking tape in order that a possible break in the marking tape results in a loss of resonance or displacement of resonant frequency of at least one of the resonant circuits (the added material being underlined). It is respectfully submitted that this feature is not taught by, or any way suggested by, the references relied on and that claim 1 and the claims dependent thereon are patentable for at least this reason.

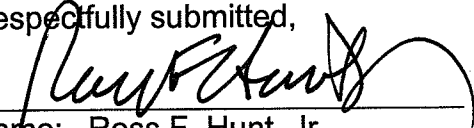
It is noted that, in addition to the amendment of claim 1 discussed above, some very minor amendments have been made to the claim to use terminology that is more commonly used in U.S. practice.

Allowance of the application in its present form is respectfully solicited.

Respectfully submitted,

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